

**Notice of Allowability**

Application No.

09/886,829

Examiner

Jenna-Leigh Befumo

Applicant(s)

CURRO ET AL.

Art Unit

1771

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on March 8, 2005.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Specification, on page 1, after "09/467938", insert --, issued as U.S. Patent No. 6,884,494 --.

### **REASONS FOR ALLOWANCE**

2. The following is an examiner's statement of reasons for allowance:
3. The Amendment submitted on March 8, 2005, has been entered. Claim 6 has been amended. Therefore, the pending claims are 1 – 10. The amendments to the drawings and specification have also been entered.

### ***Terminal Disclaimer***

4. The terminal disclaimer filed on March 8, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Applications 09/467,938, 09/584,676, 09/886,730, 09/886,828, and 10/148,879 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Drawings***

5. The drawings were received on March 8, 2005. These drawings and the amendments to the specification are sufficient to overcome some of the objections set forth in the previous Office Action. However, the objections set forth below are being maintained.

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6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference signs not mentioned in the description: 64, 66, 68, 70, and 72 in Figures 7 and 8.

7. The drawings are objected to because Figure 8, after being scanned, is mostly black and it is impossible to tell what the picture is suppose to be, or where the reference numbers are pointing. It is suggested that he applicant provide a picture with greater contrast between the different regions of the figure.

8. The drawings are objected to because the specification does not include a description of Figures 6 – 8. The applicant deleted these from the specification in the previous amendment, but the corresponding drawings were not deleted. If the applicant would like the drawings deleted formal substitute drawings must be submitted which no longer include Figures 6 – 8 and renumber Figures 9 – 16. Otherwise the applicant must make the corrections to Figures 6 – 8 set forth above and add the description of theses figures back to the disclosure.

9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

10. The amendment to the claims is sufficient to overcome the 35 USC 102 and 35 USC 103 rejections based on Srinivasan (5,567,501) set forth in the previous Office Action. Srinivasan fails to teach joining the outer layers together in a face-to-face relationship at a plurality of bond points through apertures in the middle layer where the middle layer is an elastic material. Instead the outer layers my contact each other along the edges of the apertures but they are not bonded together in a face to face relationship.

11. The amendment to the claims is sufficient to overcome the 35 USC 102 and 35 USC 103 rejections based on Palumbo (WO 96/10979) set forth in the previous Office Action. Palumbo fails to teach joining the outer layers together in a face-to-face relationship at a plurality of bond points through apertures in the middle layer. Instead the outer layers of Palumbo are slightly bonded together at the edges and not in a face to face relationship.

12. The prior art fails to teach a three layer laminate wherein the outer layers are bonded together at discrete bond sites, the middle layer is an elastic layer with apertures located at the bond sites, and the outer layers are joined together in a face to face relationship, through the apertures of the middle layer at the bond sites.

13. Thus, claims 1 – 10 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jenna-Leigh Befumo  
March 30, 2005



CHELSEA A. HUSKA  
PRIM. EXAMINER